

DEVIN DERHAM-BURK #104353
CHAPTER 13 STANDING TRUSTEE
P O Box 50013
San Jose, CA 95150-0013

Telephone: (408) 354-4413
Facsimile: (408) 354-5513

Trustee for Debtor(s)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA - DIVISION 5

In re:	)	Chapter 13
	)	Case No. 18-51921 SLJ
)	
	)	FIRST AMENDED TRUSTEE'S OBJECTION
DORIA YVETTE FRIAS	)	TO CONFIRMATION WITH CERTIFICATE
	)	OF SERVICE
)	
	)	Initial Confirmation Date: OCTOBER 24, 2018
	)	Initial Confirmation Time: 1:25 PM
	)	Place: 280 S. 1 st Street Room 3099
	)	San Jose, CA
Debtor(s)	)	Judge: Stephen L. Johnson

Devin Derham-Burk, Trustee in the above matter, objects to the Confirmation of this Plan for the following reasons:

1. Pursuant to the review of the pay advices provided it appears that the Debtors average monthly income is approximately \$4,065.02 not \$3,187.60 and her average monthly withholdings is approximately \$1,074.01 not \$871.85 as listed on Schedule I. The Debtor must amend Schedule I & J accordingly. Because of this inconsistency, the Trustee cannot determine whether the plan is feasible under 11 U.S.C. § 1325(a)(6). NOTE: It appears the debtor receives commission income that have been omitted.

- 1 2. The Debtor has failed to comply with 11 U.S.C. § 521(a)(1)(B)(iv) because the Debtor
2 has failed to provide the Trustee with a copy of her payment advice dated on or about
3 August 24, 2018. If the Debtor cannot provide a copy of the payment advice, a
4 declaration signed by the Debtor under penalty of perjury must be provided pursuant to
5 General Order 32 of the United States Bankruptcy Court for the Northern District of
6 California. Pursuant to the order, the declaration must set forth the reasons that the pay
7 advice is unavailable and should state the Debtor's estimate of payments received within
8 the 60 days before the petition date and provide other evidence, if any, of the payments
9 received.
10
11 3. In order to assist the Trustee in determining whether the disposable income test in 11 U.S.C.
12 §1325(b)(1)(B) and/or the feasibility test in 11 U.S.C. §1325(a)(6) is met, the Trustee
13 requests that the Debtor provide her with a copy of each federal and state income tax return
14 and W-2 form required under applicable law with respect to each tax year of the Debtor's
15 ending while the case is pending confirmation. The tax return shall be provided to her at
16 the same time it is filed with the taxing authority.
17
18 4. The Trustee questions the feasibility of the Debtor's Plan pursuant to 11 U.S.C. §
19 1325(a)(6). Pursuant to the Debtor's testimony at the Meeting of Creditors held October
20 10, 2018 her alimony income will end this month. The Debtor will have a deficit in her
21 budget of \$731.25 per month, after she makes her plan payment of \$75.00 with this income.
22
23
24
25

26 Dated: October 17, 2018

/S/ Devin Derham-Burk

27
28 Chapter 13 Trustee

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

DORIA YVETTE FRIAS
1052 AUDUBON DR
SAN JOSE, CA 95122

/S/ Clotilde Costa
Office of Devin Derham-Burk, Trustee